

EO

SEP 17 1982

Gentlemen:

Your application for exemption under the provisions of Section 521 of the code has been considered.

The evidence presented discloses you were incorporated under the laws of the State of [REDACTED] on [REDACTED]. The purposes as taken from your Articles of Incorporation are to engage in any activity within the purposes for which Co-operatives may be organized, including specifically but not limited to the following: To buy and sell and otherwise deal in, at retail, wholesale, and on consignment, grain, feed and other farm produce; and in goods, wares, and merchandise, including fertilizer, insecticides, fungicides, and herbicides and petroleum products for its members and patrons.

[REDACTED] issued [REDACTED] shares of preferred non-member stock with par value of \$[REDACTED] per share to [REDACTED] to bear interest [REDACTED] % per annum. In exchange for [REDACTED] fertilizer equipment-storage van and [REDACTED] of common stock of [REDACTED].

The primary activity of your organization is selling for cash, agricultural supplies, equipment, feed and fertilizer to farmers and for cash at cost plus expenses. Cash in advance plus [REDACTED] % for expenses in ordering which is annually adjusted to insure non-profit operation.

You stated on Form 1028 that you did not distribute the net earnings of [REDACTED] as patronage dividends, nor did you allocate them on your books. You also stated on Form 1028 question 18 that you did not purchase any supplies or equipment for members or non-members who were producers.

Section 521(b) of the Internal Revenue Code of 1954 states, the farmers' cooperatives exempt from taxation to the extent provided in subsection (a) are farmers', fruit growers', or like associations organized and operated on a cooperative basis (A) for the purpose of marketing the products of members or other producers, and turning back to them the proceeds of sales, less the products furnished by them, or (B) for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses."

	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
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Regulations 1.521-1(a)(1) provides in part "---In order to show its cooperative nature and to establish compliance with the requirement of the code that the proceeds of sales, less necessary expenses be turned back to all producers on the value of the products furnished by them, or for the purpose of purchasing supplies and equipment for the use of members or other persons, and turning over such supplies and equipment to them at actual cost, plus necessary expenses, it is necessary for such an organization to keep permanent records of the business done with both members and non-members.

You are not a Farmers Cooperative organized and operated on a cooperative basis within the meaning of Section 621 of the code, because you do not keep records of business done with patrons both members and non-members alike, you do not pay patronage dividends, nor allocate such on books with a pre-existing agreement with members. Accordingly, you are required to file Federal income tax returns on Form 1120.

If you do not agree with these conclusions, you may request Appeals Office consideration. To do this, you must submit to the District Director within 30 days from the date of this letter, a statement of facts, law, and arguments, in duplicate, which will clearly set forth your position. You also must state whether you wish an Appeals Office conference. Any submission must be signed by one of your principal officers. If the matter is to be handled by a representative, the Conference and Practice Requirements regarding the filing of a power of attorney and evidence of enrollment to practice must be met.

If we do not hear from you within the time specified, this communication will become our determination in the matter.

Very truly yours,


District Director

Enclosure:
Publication 892